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REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION

Report of the Sixth Committee

Rapporteur: Ms. Pascaline BOUM (Cameroon)

I. INTRODUCTION

1. The item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" was included in the provisional agenda of the fifty-first session of the General Assembly pursuant to Assembly resolution 50/52 of 11 December 1995.

2. At its 3rd plenary meeting, on 20 September 1996, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 5th to 8th, 49th and 50th meetings, on 26, 27 and 30 September and on 27 and 29 November 1996. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/51/SR.5-8, 49 and 50).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[1]

(b) Report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter (A/51/317).

5. In its report, which was introduced by its Chairman at the 5th meeting of the Sixth Committee, on 26 September, the Special Committee had, inter alia, invited the General Assembly at its fifty-first session to consider the question of an appropriate organizational framework for addressing further the implementation of the provisions of the Charter of the United Nations relating to assistance to third States affected by the application of sanctions under Chapter VII of the Charter and the implementation of the provisions of resolution 50/51, taking into account the reports of the Secretary-General and the proposals presented and views expressed in the Special Committee.

6. At its 30th meeting, on 1 November, the Sixth Committee decided to establish a Working Group to consider the issues raised in paragraph 5 above. The Committee elected Ms. Socorro Flores (Mexico) as the Chairman of the Working Group, which held four meetings, from 18 to 26 November.

7. At the 49th meeting, on 27 November, the Chairman of the Working Group presented an oral report on the work of the Working Group (see A/C.6/51/SR.49).

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.6/51/L.18

8. At the 49th meeting, on 27 November, the Chairman of the Working Group introduced a draft resolution entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions" (A/C.6/51/L.18).

9. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.18 without a vote (see para. 14, draft resolution I).

B. Draft resolution A/C.6/51/L.20

10. At the 50th meeting, on 29 November, the representative of Egypt, on behalf of Egypt, the United Republic of Tanzania and Venezuela, later joined by Brazil, Ecuador, Finland, Kenya, New Zealand, Nigeria, the Philippines, Portugal, Tunisia and Zambia, introduced a draft resolution entitled "Report of the

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[1] Official Records of the General Assembly, Fifty-first Session, Supplement No. 33 (A/51/33).

Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization" (A/C.6/51/L.20).

11. The Committee also had before it a statement (A/C.6/51/L.21) of programme budget implications of the draft resolution, prepared by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly.

12. At the same meeting, the Committee adopted draft resolution A/C.6/51/L.20 without a vote (see para. 14, draft resolution II).

13. The representative of the United States of America did not participate in the decision and made a statement in explanation of position (see A/C.6/51/SR.50).

III. RECOMMENDATIONS OF THE SIXTH COMMITTEE

14. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions

The General Assembly,

Concerned with the special economic problems confronting certain States arising from the carrying out of preventive or enforcement measures taken by the Security Council against other States, and taking into account the obligation of Members of the United Nations under Article 49 of the Charter of the United Nations to join in affording mutual assistance in carrying out the measures decided upon by the Security Council,

Recalling the right of third States confronted with special economic problems of that nature to consult the Security Council with regard to a solution to those problems, in accordance with Article 50 of the Charter,

Recognizing the desirability of the consideration of further appropriate procedures for consultations to deal in a more effective manner with the problems referred to in Article 50 of the Charter,

Recalling also:

(a) The report of the Secretary-General, entitled "An Agenda for Peace",[2] in particular paragraph 41 thereof;

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[2] A/47/277-S/24111.

(b) Its resolutions 47/120 A of 18 December 1992, entitled "An Agenda for Peace: preventive diplomacy and related matters", and 47/120 B of 20 September 1993, entitled "An Agenda for Peace", in particular section IV thereof, entitled "Special economic problems arising from the implementation of preventive or enforcement measures";

(c) The position paper of the Secretary-General, entitled "Supplement to an Agenda for Peace";[4]

(d) The statement of the President of the Security Council of 22 February 1995;[4]

(e) The report of the Secretary-General prepared pursuant to the note by the President of the Security Council[5] regarding the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter;[6]

(f) The reports of the Secretary-General on economic assistance to States affected by the implementation of the Security Council resolutions imposing sanctions against the Federal Republic of Yugoslavia (Serbia and Montenegro);[7]

(g) The 1994,[8] 1995[9] and 1996[10] reports of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization containing sections on the consideration by the Committee of the proposals presented on the question of the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter;

(h) The report of the Secretary-General on the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter,[11]

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[4] A/50/60-S/1995/1.

[4] S/PRST/1995/9.

[5] S/25036.

[6] A/48/573-S/26705.

[7] A/49/356, A/50/423 and A/51/356.

[8] Official Records of the General Assembly, Forty-ninth Session, Supplement No. 33 (A/49/33).

[9] Ibid., Fiftieth Session, Supplement No. 33 (A/50/33).

[10] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33).

[11] A/50/361.

Taking note of the report of the Secretary-General submitted in accordance with General Assembly resolution 50/51 of 11 December 1995,[12]

Recalling that the question of assistance to third States affected by the application of sanctions has been addressed recently in several forums, including the General Assembly and its subsidiary organs and the Security Council,

Recalling also the measures taken by the Security Council in accordance with the statement of the President of the Security Council of 16 December 1994[13] as part of the Council's effort to improve the flow of information and the exchange of ideas between members of the Council and other States Members of the United Nations, that there should be increased recourse to open meetings, in particular at an early stage in its consideration of a subject,

Stressing that in the formulation of sanctions regimes, due account should be taken of the potential effects of sanctions on third States,

Stressing also in this context the powers of the Security Council under Chapter VII of the Charter and the Council's principal responsibility under Article 24 of the Charter for the maintenance of international peace and security in order to ensure prompt and effective action by the United Nations,

Recalling that, under Article 31 of the Charter, any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected,

Recognizing that the imposition of sanctions under Chapter VII has been causing special economic problems in third States,

Recognizing also that assistance to third States affected by the application of sanctions would further contribute to an effective and comprehensive approach by the international community to sanctions imposed by the Security Council,

Recognizing further that the international community at large and, in particular, international institutions involved in providing economic and financial assistance should continue to take into account and address in a more effective manner the special economic problems of affected third States arising from the carrying out of preventive or enforcement measures taken by the Security Council under Chapter VII of the Charter, in view of their magnitude and of the adverse impact on the economy of those States,

Recalling the provisions of its resolution 50/51,

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[12] A/51/317.

[13] S/PRST/1994/81.

1. Underlines the importance of consultations under Article 50 of the Charter of the United Nations, as early as possible, with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council under Chapter VII of the Charter and of early and regular assessments, as appropriate, of their impact on such States;

2. Invites the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for such consultations with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its working methods and procedures applied in the consideration of the requests by the affected countries for assistance, in the context of Article 50 of the Charter;

3. Welcomes the further measures taken by the Security Council since the adoption of General Assembly resolution 50/51 and aimed at increasing the effectiveness and transparency of the sanctions committees, and strongly recommends that the Council continue its efforts further to enhance the functioning of those committees, to streamline their working procedures and to facilitate access to them by representatives of States which find themselves confronted with special economic problems arising from the carrying out of sanctions;

4. Requests the Secretary-General to ensure that the competent units within the Secretariat that he designated to carry out the functions stipulated in paragraph 3 of General Assembly resolution 50/51 develop the capacity and modalities for providing better information and early assessments for the Security Council and its organs, at their request, about actual or potential effects of sanctions on third States which invoke Article 50 of the Charter; such assessments should, as appropriate, identify specific problems and needs of those States and suggest specific ways and means for their alleviation to be included in the recommendations of the Council and appeals by the Secretary-General to the donor community for assistance to the adversely affected States;

5. Also requests the Secretary-General to continue, on the basis of the work already done, efforts with a view to developing a possible methodology for assessing the adverse consequences actually incurred by third States as a result of preventive or enforcement measures, and to utilize for this purpose all the expertise available throughout the United Nations system, including that of the international financial and trade institutions; that methodology, upon appropriate approval, should be made available to interested States which may wish to use it in preparing the data to annex to their applications under Article 50, as well as to the United Nations system, the international financial institutions and the donor community in considering requests for assistance;

6. Further requests the Secretary-General to continue, on a regular basis, to collate and coordinate information about international assistance available to third States affected by the implementation of sanctions and to initiate action to explore innovative and practical measures of assistance to the affected third States, inter alia, through cooperation with relevant institutions and organizations inside and outside the United Nations system;

7. Reaffirms the important role of the General Assembly, the Economic and Social Council and the Committee for Programme and Coordination in mobilizing and monitoring, as appropriate, the economic assistance efforts by the international community and the United Nations system to States confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Security Council and, as appropriate, in identifying solutions to the special economic problems of those States;

8. Invites the organizations of the United Nations system, international financial institutions, other international organizations, regional organizations and Member States to continue to address more specifically and directly, where appropriate, special economic problems of third States affected by sanctions imposed under Chapter VII of the Charter and, for this purpose, to consider improving procedures for consultations to maintain a constructive dialogue with such States, including through regular and frequent meetings as well as, where appropriate, special meetings between the affected third States and the donor community, with the participation of United Nations agencies and other international organizations;

9. Requests the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, at its session in 1997, to continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration all the related reports of the Secretary-General, the proposals submitted on this subject, the debate on this question which took place in the Sixth Committee at the fifty-first session of the General Assembly and the debate in the sub-group on sanctions of the Open-ended Working Group on an Agenda for Peace during the fiftieth session of the General Assembly, and also the implementation of the provisions of the present resolution;

10. Requests the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its fifty-second session.

DRAFT RESOLUTION II

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

The General Assembly,

Recalling its resolution 3499 (XXX) of 15 December 1975, by which it established the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, and its relevant resolutions adopted at subsequent sessions,

Recalling also its resolution 47/233 of 17 August 1993 on the revitalization of the work of the General Assembly,

Recalling further its resolution 47/62 of 11 December 1992 on the question of equitable representation on and increase in the membership of the Security Council,

Bearing in mind the provisions of its resolution 50/55 of 11 December 1995,

Conscious of the ongoing discussion in the open-ended working groups of the General Assembly dealing with the various aspects of the revitalization, strengthening and reform of the work of the United Nations,

Taking note of the report of the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council[14] and the report of the Open-ended High-level Working Group on the Strengthening of the United Nations System,[15]

Bearing in mind the reports of the Secretary-General on the work of the Organization submitted to the General Assembly at its thirty-seventh,[16] thirty-ninth,[17] fortieth,[18] forty-first,[19] forty-second,[20] forty-third,[21] forty-fourth,[22] forty-fifth,[23] forty-sixth,[24] forty-seventh,[25] forty-eighth,[26]

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[14] Official Records of the General Assembly, Fiftieth Session, Supplement No. 47 and addendum (A/50/47 and Add.1).

[15] Ibid., Supplement No. 24 (A/50/24).

[16] Ibid., Thirty-seventh Session, Supplement No. 1 (A/37/1).

[17] Ibid., Thirty-ninth Session, Supplement No. 1 (A/39/1).

[18] Ibid., Fortieth Session, Supplement No. 1 (A/40/1).

[19] Ibid., Forty-first Session, Supplement No. 1 (A/41/1).

[20] Ibid., Forty-second Session, Supplement No. 1 (A/42/1).

[21] Ibid., Forty-third Session, Supplement No. 1 (A/43/1).

[22] Ibid., Forty-fourth Session, Supplement No. 1 (A/44/1).

[23] Ibid., Forty-fifth Session, Supplement No. 1 (A/45/1).

[24] Ibid., Forty-sixth Session, Supplement No. 1 (A/46/1).

[25] Ibid., Forty-seventh Session, Supplement No. 1 (A/47/1).

[26] Ibid., Forty-eighth Session, Supplement No. 1 (A/48/1).

forty-ninth,[27] fiftieth[28] and fifty-first[29] sessions, as well as the views and comments expressed on them by Member States,

Recalling the elements relevant to the work of the Special Committee contained in its resolution 47/120 B of 20 September 1993,

Recalling also the provisions of its resolution 50/51 of 11 December 1995 on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions,

Taking note of the report of the Secretary-General submitted in accordance with resolution 50/51,[30]

Mindful of the desirability for the Special Committee to carry out further work in the fields of the maintenance of international peace and security and the peaceful settlement of disputes between States,

Recalling its resolution 50/52 of 11 December 1995,

Having considered the report of the Special Committee on the work of its session held in 1996,[31]

1. Takes note of the report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization;[31]

2. Decides that the Special Committee will hold its next session from 27 January to 7 February 1997;

3. Requests the Special Committee, at its session in 1997, in accordance with paragraph 5 of resolution 50/52:

(a) To accord appropriate time for the consideration of all proposals concerning the question of the maintenance of international peace and security in all its aspects in order to strengthen the role of the United Nations and, in this context, to consider other proposals relating to the maintenance of international peace and security already submitted or which may be submitted to the Special Committee at its session in 1997, including the revised proposal on the strengthening of the role of the United Nations in the maintenance of international peace and security, the revised working paper on the strengthening of the role of the United Nations in the maintenance of international peace and

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[27] Ibid., Forty-ninth Session, Supplement No. 1 (A/49/1).

[28] Ibid., Fiftieth Session, Supplement No. 1 (A/50/1).

[29] Ibid., Fifty-first Session, Supplement No. 1 (A/51/1).

[30] A/51/317.

[31] Official Records of the General Assembly, Fifty-first Session, Supplement No. 33 (A/51/33).

security and strengthening of the role of the Organization and enhancing its effectiveness,[32] and the working paper on the draft declaration on the basic principles and criteria for the work of the United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts;[33]

(b) To continue to consider on a priority basis the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, taking into consideration the reports of the Secretary-General,[34] the proposals submitted on this subject, the debate on this question which took place in the Sixth Committee at the fifty-first session of the General Assembly and the debate in the sub-group on sanctions of the Open-ended Working Group on an Agenda for Peace during the fiftieth session of the General Assembly, and also the implementation of the provisions of General Assembly resolutions 50/51 and 51/...;

(c) To continue its work on the question of the peaceful settlement of disputes between States and, in this context, to continue its consideration of proposals relating to the peaceful settlement of disputes between States, including the proposal on the establishment of a dispute settlement service offering or responding with its services early in disputes and those proposals relating to the enhancement of the role of the International Court of Justice;

(d) To continue to consider proposals concerning the Trusteeship Council in the light of the report of the Secretary-General[35] submitted in accordance with resolution 50/55 and the views of the States expressed on this subject during the fifty-first session of the General Assembly;

4. Requests the Secretary-General, taking into account the views expressed and the practical suggestions made during the debates held within the framework of the Sixth Committee,[36] to expedite the preparation and publication of the Supplements to the Repertoire of the Practice of the Security Council and the Repertory of Practice of United Nations Organs and to submit a progress report on the matter to the General Assembly before its fifty-second session;

5. Invites the Special Committee at its session in 1997 to continue to identify new subjects for consideration in its future work with a view to contributing to the revitalization of the work of the United Nations, to discuss how to offer its assistance to the working groups of the General Assembly in

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[32] See Official Records of the General Assembly, Fiftieth Session, Supplement No. 33 (A/50/33), para. 47.

[33] Ibid., Fifty-first Session, Supplement No. 33 (A/51/33), para. 128.

[34] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/423, A/50/361 and A/51/317.

[35] A/50/1011.

[36] See A/C.6/51/SR.5.

this field and, in this regard, to consider ways and means of improving coordination between the Special Committee and other working groups dealing with the reform of the Organization, including the role of the Chairperson of the Special Committee for this purpose;

6. Requests the Special Committee to submit a report on its work to the General Assembly at the fifty-second session;

7. Decides to include in the provisional agenda of its fifty-second session the item entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".